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REQUEST FOR THE INCLUSION OF AN ADDITIONAL ITEM
IN THE AGENDA OF THE FIFTY-FIRST SESSION

OBSERVER STATUS FOR THE INTERNATIONAL TRIBUNAL
FOR THE LAW OF THE SEA

Letter dated 26 November 1996 from the Permanent
Representative of Germany to the United Nations
addressed to the Secretary-General

After consultations with other delegations and upon instructions from my Government, I have the honour to request, in accordance with rule 15 of the rules of procedure of the General Assembly, the inclusion in the agenda of the fifty-first session of the General Assembly of an additional item of an urgent and important nature entitled "Observer status for the International Tribunal for the Law of the Sea".

In accordance with rule 20 of the rules of procedure of the General Assembly, an explanatory memorandum concerning the request is attached as an annex to the present letter.

I further have the honour to request that the present letter be circulated as a document of the General Assembly.

(Signed) Tono EITEL

96-34069 (E) 271196

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ANNEX

Explanatory memorandum

The International Tribunal for the Law of the Sea (hereinafter referred to as "the Tribunal") is an intergovernmental institution established by the United Nations Convention on the Law of the Sea of 10 December 1992 (hereinafter referred to as "the Convention"). The seat of the Tribunal is in the Free and Hanseatic City of Hamburg in the Federal Republic of Germany.

The Tribunal is an institution established for the settlement of disputes by peaceful means consistent with Article 2, paragraph 3, of the Charter of the United Nations, and in accordance with Part XV of the Convention. It is a forum for judicial settlement, being one of the means for the peaceful settlement of disputes referred to in Article 33 of the Charter.

The Tribunal serves to encourage States parties, in conjunction with their obligations under Article 2, paragraph 2, of the Charter, to fulfil in good faith the obligations assumed under the Convention and other international agreements.

The Tribunal has competence over all matters governed by the Convention relating to the seas and oceans, which constitute nearly three fourths of the Earth's surface. Under article 21 of annex VI of the Convention, the jurisdiction of the Tribunal comprises all disputes concerning the interpretation or application of the Convention in accordance with article 288 and of other international agreements related to the purposes of the Convention that confer jurisdiction on the Tribunal. The jurisdiction includes prescribing, modifying or revoking provisional measures to preserve the respective rights of the parties or to prevent serious harm to the marine environment, in disputes before the Tribunal, submitted in accordance with article 290 of the Convention.

Its Seabed Disputes Chamber has exclusive jurisdiction over all disputes involving activities in the exploitation of the resources of the seabed and ocean floor and subsoil thereof beyond the limits of national jurisdiction. The jurisdiction extends to disputes to which the parties could include the International Seabed Authority and other entities other than States parties, including natural and juridical persons. The Seabed Disputes Chamber, at the request of the Assembly or the Council of the International Seabed Authority, will provide advisory opinions on legal questions arising within the scope of their activities and referred to it under article 191 of the Convention. Disputes arising out of the Agreement relating to the implementation of Part XI of the Convention can also be submitted to the Tribunal, to its Seabed Disputes Chamber.

Other agreements conferring jurisdiction in the Tribunal include the Agreement for the implementation of the provisions of the Convention relating to the conservation of straddling fish stocks and highly migratory fish stocks (hereinafter referred to as "the Agreement"). Article 30 of the Agreement confers jurisdiction on the Tribunal with respect to any dispute between States

parties to the Agreement concerning the interpretation or application of the Agreement or concerning the interpretation or application of a subregional, regional or global fisheries agreement relating to straddling fish stocks or highly migratory fish stocks to which they are parties.

The jurisdiction of the Tribunal includes exclusive jurisdiction in urgent cases of applications for the prompt release of arrested vessels and their crews submitted to the Tribunal in accordance with article 292 of the Convention.

The problems of ocean space are closely interrelated and need to be considered as a whole. The activities of the Tribunal are complementary to those of the United Nations in many fields, in particular the field of the law of the sea and ocean affairs, for which the Secretary-General serves as the secretariat of the Convention, and as an agency of cooperation, collation and some coordination. Furthermore, the Tribunal, being the central institution created under the Convention for the peaceful settlement of disputes, needs to be aware of all developments relating to the oceans and general principles and developments relating to peaceful settlements, in accordance with the Charter. The establishment and functioning of the Tribunal constitute important components of the developments relating to the Convention. These would also be included in the review by the General Assembly in its consideration of the item on the law of the sea.

At the fifth Meeting of States Parties, held in New York from 24 July to 2 August 1996, various matters relating to the establishment of the Tribunal were discussed. The Meeting decided, inter alia, that since the proceedings of the General Assembly were of interest to it, the Tribunal should be appropriately represented at the meetings of the General Assembly and should apply for observer status.*

The adoption of such a resolution is a matter of importance and urgency, since, without it, or if there be a delay, the Tribunal would, during its important organizational phase, be the only institution established by the Convention that would lack this essential link to the United Nations and its activities, a situation that would be inconsistent with the essentially interrelated nature of the problems of ocean space.

The Tribunal, at its first session, held at Hamburg from 1 to 31 October 1996, considered, inter alia, the report of the fifth Meeting of States Parties and took note of the decisions taken by it. Having an interest in the law of the sea and ocean affairs, including fisheries and navigation, the global environment, sustainable development, questions relating to administration and other related matters considered by the General Assembly, it decided that the Tribunal should seek to obtain observer status at the United Nations to enable it to participate as an observer in the deliberations of the Assembly with respect to topics of interest to the Tribunal. To this end, the Tribunal requested the Registrar to take the necessary measures in order to seek such observer status.

The Tribunal considers that the granting of observer status at the United Nations would assist in establishing and consolidating links between the Tribunal and the United Nations that would be of mutual benefit.

The Tribunal requests that it be granted observer status at the United Nations.

Notes

* Report of the Fifth Meeting of States Parties, para. 36 (SPLOS/14, 20 September 1996).